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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,745	01/22/2002	Brendan M. Donohoe	057	3564
33109	7590	10/30/2006	EXAMINER	
CARDICA, INC. 900 SAGINAW DRIVE REDWOOD CITY, CA 94063			ART UNIT	PAPER NUMBER

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

NOTIFICATION OF NON-COMPLIANCE WITH THE REQUIREMENTS OF 37 CFR 41.37(c)

The brief does not contain a concise statement of each ground of rejection presented for review as required by 37 CFR 41.37(c)(1)(vi).

The Appellant (see page 3, last paragraph and foot note number ³) stated that:

1. "Independent claim 1 also stands finally rejected under 35 U.S.C. § 102(b) as being anticipated by the "Sales training brochure entitled 'CorLink Automated Anastomosis Device' (2002)."³ Dependent claims 7 and 15 also stand finally rejected under that reference"

and

2. "³ Office Action of May 18, 2006 ("Final Action"); page 3. The Final Action rejected claims 1, 7, and 15 as being anticipated by "St. Jude Medical, Instruction for use [sic]," Figures 14-15. On May 27, 2005, Cardica submitted a reference titled "Cardica PAS-Port Proximal Anastomosis System 510(k), Section VI.C, "Substantial Equivalence," and Attachment 7," which included St. Jude Medical Instructions for Use for its Symmetry tool. However, that reference has no Figure 14 or 15. It is believed that the reference intended to have been cited in the Final Action was the other non-patent reference submitted on May 27, 2005, "Sales training brochure entitled 'CorLink Automated Anastomosis Device' (2002)," ("CorLink Brochure"), which does include Figures 14 and 15. This Appeal Brief responds to the Final Action accordingly.

However, a review of the reference filed on May 27, 2005 shows that "Cardica PAS-Port Proximal Anastomosis System 510(k), Section VI.C, "Substantial Equivalence, and Attachment 7" including "St. Jude Medical Instructions for Use for its Symmetry tool" does include Fig. 14-15

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applied and cited the final rejection. At the same time, "CorLink Automated Anastomosis Device' (2002) ("CorLink Brochure")" does not include Figures 14 and 15.

The Appellant has incorrectly referred to an incorrect reference for his arguments, therefore, the argument in the "Appeal Brief" is irrelevant and make the brief defective.


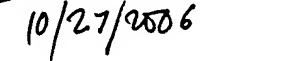
Before the case can be further processed, a correction is required.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on 571-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vy Q. Bui
Primary Examiner
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